

# THE PAYMENT OF WAGES ACT, 1936

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# INTRODUCTION

- ◉ The Payment of Wages Act, 1936 was passed to regulate the payment of wages to certain classes of persons employed in industry.
- ◉ It is essentially meant for the benefit of the industrial employees not getting very high salaries and the provisions of the Act were enacted to safeguard their interest.
- ◉ It also provides against irregularities in payment of wages and unauthorized deductions there from by the employers.
- ◉ Further, it ensures payment of wages in a particular form and at regular intervals without unauthorized deductions.

# OBJECT OF THE ACT

- “The main objective of the act is to ensure regular and prompt payment of wages and to prevent unauthorized deductions and arbitrary fines from the wages. It also regulates the rate of payment for overtime work. The act is applicable to persons employed in factory/ industrial establishment and drawings less than Rs.1600/- per month.”
- “The Payment of Wages Act regulates the payment of wages to certain classes of persons employed in industry and its importance cannot be under-estimated. The Act guarantees payment of wages on time and without any deductions except those authorized under the Act.

The Act provides for the responsibility for payment of wages, fixation of wage period, time and mode of payment of wages, permissible deduction as also casts upon the employer a duty to seek the approval of the Government for the acts and permission for which fines may be imposed by him and also sealing of the fines, and also for a machinery to hear and decide complaints regarding the deduction from wages or in delay in payment of wages, penalty for malicious and vexatious claims.

The Act does not apply to persons whose wage is Rs. 10,000 or more per month. The Act also provides to the effect that a worker cannot contract out of any right conferred upon him under the Act.”

# APPLICABILITY

- It applies in the first instance to the payment of wages to persons employed in any factory, to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration and to persons employed in an industrial or other establishment specified.

# DEFINITIONS

## **EMPLOYED PERSON [Sec. 2 (ia)]:-**

- ◉ Includes the legal representative of a deceased employed person.

## **EMPLOYER [Sec.2 (ib)]:-**

- ◉ Includes the legal representative of a deceased employer.

## **INDUSTRIAL OR OTHER ESTABLISHMENT [SEC. 2 (II)]:-It means**

- (a) Tramway service, or motor transport service engaged in carrying passengers or goods or both by road for hire or reward; air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;
- (b) Dock, wharf or jetty;
- (c) Inland vessel, mechanically propelled;
- (d) Mine, quarry or oil-field;
- (e) Plantation;
- (f) Workshop or other establishment, in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

- (g) Establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation, or to the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on.
- (h) any other establishment or class of establishments which the Central Government or a State Government may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification in the Official Gazette.



## **Wages [Sec. 2 (vi)]:- Means all remuneration (whether by way of salary, allowances, or otherwise)**

- ◉ Expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes-
  - (a) Any remuneration payable under any award or settlement between the parties or order of a court;
  - (b) Any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
  - (c) Any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
  - (d) Any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
  - (e) Any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,

◉ But does not include-

- 1) Any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
- 2) The value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
- (3) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (4) Any traveling allowance or the value of any traveling concession;
- (5) Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;  
or
- (6) Any gratuity payable on the termination of employment in cases other than those specified in sub-clause.

# PAYMENT OF WAGES (SEC. 3 TO 6)

## **Responsibility for payment of wages [Section 3].**

- ◉ Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid.
- ◉ In the case of the factory, manager of that factory shall be liable to pay the wages to employees employed by him.
- ◉ In the case of industrial or other establishments, persons responsibility of supervision shall be liable for the payment of the wage to employees employed by him.
- ◉ In the case of railways, a person nominated by the railway administration for specified area shall be liable for the payment of the wage to the employees.
- ◉ In the case of contractor, a person designated by such contractor who is directly under his charge shall be liable for the payment of the wage to the employees. If he fails to pay wages to employees, person who employed the employees shall be liable for the payment of the wages .

## **Fixation of wage-periods. [Section 4]**

- Every person responsible for the payment of wages under section 3 shall fix periods in respect of which such wages shall be payable. No wage-period shall exceed one month. That means wage can be paid on daily, weekly, fortnightly (for every 15 days) and monthly only. Wage period for payment of wages to employees by employer should not exceed 30days i.e. one month according to this act.
- But wages cannot be paid for quarterly, half yearly or once in a year.

## Time Of Payment Of Wages. [Section 5]

- In railway factory or industrial or other establishment, if there are less than 1000 employees, wages of employees should be paid before the expiry of the 7th day after the last day of the wage period. (ex:- wages should be paid on starting of present month within 7 days i.e. before 7th date if wage is paid on 1st in previous month )
- In other railway factory or industrial or other establishment, if there are more than 1000 employees, wages of employees should be paid before the expiry of the 10th day after the last day of the wage period. (ex:- wages should be paid on starting of present month within 10 days i.e. before 10th date if wage is paid on 1st in previous month )
- For employees of port area, mines, wharf or jetty, wages of employees should be paid before the expiry of the 7h day after the last day of the wage period.

## [Sec 5 (2)]

If the employee is terminated or removed for the employment by the employer the wage of that employee should be paid within 2 days from the day on which he was removed or terminated.

*if the employee was terminated or removed from the employment by the employer on 10th of this month, his wage should be paid within 2 days from the day on which he was removed or terminated, i.e. his/her wage should be paid by 12th date of this month and this date should not exceed.*

## [Sec 5 (3)]

With the consultation of the central government, state government having power and can change the person responsible for the payment of the wages in Railways, or person responsible to daily-rated workers in the Public Works Department of the Central Government or the State Government.

## [Sec 5 (4)]

Except the payment of wage of the terminated employee, all the wages of the employees should be paid by their employer on the working day only.

## **WAGES TO BE PAID IN CURRENT COIN OR CURRENCY NOTES [Section 6]**

All the wages of the employees must be paid in form of currently using currency notes or coins or in both forms. Currently using currency notes are 1000/-, 500/-, 100/-, 50/-, 20/-, 10/-, 5/- and currently using coins are 10/-, 5/-, 2/-, 1/-.

# DEDUCTION FROM WAGES (SEC.7 TO 13)

## DEDUCTIONS FOR FINES [Sec.7 (2)(a) and 8]

- ◉ No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the prescribed authority, may have specified by notice under sub-section (2).
- ◉ A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.
- ◉ No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.



- The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to three per cent of the wages payable to him in respect of that wage period.
- No fine shall be imposed on any employed person who is under the age of fifteen years.
- No fine imposed on any employed person shall be recovered from him by installments or after the expiry of sixty days from the day on which it was imposed.
- Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

## DEDUCTIONS FOR ABSENCE FROM DUTY [Sec.7 (2)(b) and 9]

- ◉ Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.
- ◉ The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made in a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:
- ◉ PROVIDED that, subject to any rules made in this behalf by the State Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

## DEDUCTIONS FOR DAMAGE OR LOSS [Sec.7 (2)(c), (m), (n) and (o) and 10]

- ⦿ A deduction under clause (c) or clause (o) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.
- ⦿ A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause (o) of sub-section (2) of section 7 until the employed person has been given an opportunity of showing cause against the deduction or otherwise than in accordance with such procedure as may be prescribed for the making of such deduction.
- ⦿ All such deduction and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

## **DEDUCTIONS FOR SERVICES RENDERED [Sec.7 (2) (d), (e) and 11]**

- ⦿ A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of deduction under the said clause (e), shall be subject to such conditions as the State Government may impose.

## DEDUCTIONS FOR RECOVERY OF ADVANCES [Sec.7 (2)(f) and 12]

- Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:
- Recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for traveling-expenses; recovery of an advance of money given after employment began shall be subject to such conditions as the State Government may impose.
- Recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the installments by which they may be recovered.

## **DEDUCTIONS FOR RECOVERY OF LOANS [Sec.7 (2)(fff) and 12-A]**

- Deductions for recovery of loans granted under clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.

## **DEDUCTIONS FOR PAYMENTS TO CO-OPERATIVE SOCIETIES AND**

### **INSURANCE SCHEMES [Sec.7 (2)(j) and (k) and 13]**

- ◉ Deductions for payment to co-operative societies approved by the government or to a scheme of insurance maintained by the Indian Post Office [Sec. 7 (2) (j) and
- ◉ Deductions made with the written authorization of the person employed for the payment of any premium on his life insurance policy to the Life Corporation of India or for the purchase of securities of the government of India or of any appropriate Government or for being deposited in any Post Office Saving Bank in furtherance of any saving scheme of any such Government [Sec. 7 (2) (k)].
- ◉ These deductions shall be subject to such conditions as the appropriate government may impose [Sec.13]

# REGULATORS / ENFORCEMENT AUTHORITIES

- ◉ Inspector of factories also inspector under this act. sec(14)
- ◉ Appointment of a person to hear claims for deductions, late payment .sec(15).

That Person can be-

- ◉ commissioner for workers compensation
- ◉ Regional or assistant labor commissioner
- ◉ Presiding officer of labor court or industrial tribunal



# CLAIMS OF DEDUCTIONS OR DELAY PAYMENT AND PENALTY FOR MALICIOUS CLAIMS. [SEC 15]

- ◉ To hear and decide all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid, including all matters, incidental to such claims, there will be a officer mentioned below appointed by the appropriate government.
- ◉ Any Commissioner for Workmen's Compensation; or
- ◉ Any officer of the Central Government exercising functions as -
  - ◉ i. Regional Labour Commissioner; or
  - ◉ ii. Assistant Labour Commissioner with at least two years' experience; or

- Any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or (d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or
- Any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate, as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims

# CLAIMS OF THE UNPAID GROUP.

- ◉ [Section 16]

There is no necessity of many applications if there are many employees whose wages has not been paid. Such all employees can make one application to the authority for payment of wages according to this act.

- ◉ **APPEAL. [Section 17]**

In the following situation the parties whoever dissatisfied can appeal to the district court

- If the application dismissed by above authorities
- If the amount exceeding 25/- rupees withheld by the employer to single unpaid employee. 50/- in case of many unpaid employees

- ◉ **POWERS OF AUTHORITIES APPOINTED. [Section 18]**

Taking evidence and enforcing the attendance of witnesses and compelling the production of documents

# PENALTY FOR OFFENCES [SEC. 20]

- ◉ **Penalty for delaying payment of wages within the prescribed period or making unauthorized deductions:-**

Whoever being responsible for the payment of wages to an employed person delays of wages within the period laid down under the Act or makes unauthorized deductions shall be punishable with fine which shall not be less than Rs.200 but which may extent to Rs.1000 [Sec.20(1)].

- ⦿ **Penalty for not paying wages on a working day or in current coin or not recording fines or not displaying the abstracts of the Act:-**

Not paying the wages on a working day, or not paying wages in current coin or currency or both, or not recording the fines or amounts realized for damage or loss in a register, or not displaying by notice abstracts of the Act and rules, are also offences punishable with a fine which may extend to Rs.500 for each offences [Sec. 20(2)].

○ **Penalty for failure to maintain, furnish records and returns:-**

Whoever being required under this Act to maintain any records or registers or to furnish any information or return-

- Fails to maintain such register or record; or
- Willfully refuses or without lawful excuse neglects to furnish such information or return; or
- Willfully furnishes or causes to be furnished any information or return which he knows to be false; or
- Refuses to answer or willfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

Shall, for each such offence, be punishable with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees [Sec.20 (3)].

## Penalty for obstructing, etc. Inspector: - Whoever—

- ◉ Willfully obstructs an Inspector in the discharge of his duties under this Act; or
- ◉ Refuses or willfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorized by or under this Act in relation to any railway, factory or 12[industrial or other establishment]; or
- ◉ Willfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act; or
- ◉ (d) prevents or attempts to prevent or does anything which he has any reason to
- ◉ believe is likely to prevent any person from appearing before or being examined
- ◉ by an Inspector acting in pursuance of his duties under this Act;
- ◉ Shall be punishable with fine which shall not be less than two hundred rupees but
- ◉ which may extend to one thousand rupees [Sec.20 (4)].

## ◉ Subsequent offences:-

If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term.

which shall not be less than one month but which may extend to 3 months and with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees or with both [Sec. 20(5)].

But no cognizance shall be taken of any earlier conviction made more than two years before the date on which the commission of the present [Proviso to Sec. 20(5)].



- ◉ **Additional fine for failure to pay wages by the fixed date:-**

If any person fails or willfully neglects to pay the wages of any employed person by the date fixed by the authority in this behalf, he shall, without prejudice to any other action that may be taken against him, be punishable with an additional fine which may extend to one hundred rupees for each day for which such failure or neglect continues [Sec. 20(6)].

# PAYMENT OF WAGES DECEASED EMPLOYEES . [SEC 25A]

- ⦿ Paid by the employer to the person nominated by the employee.
- ⦿ Wage deposited by the employer with the prescribed authority, the employer shall be discharged of his liability to pay those wages.
- ⦿ Where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed.

# EMPLOYER'S RESPONSIBILITIES

- ◉ Wage period not exceeding one month.
- ◉ Wages by cash or cheque.
- ◉ Pay wages on any working day.
- ◉ Not to impose fines exceeding 3% of wages.
- ◉ Recover fines with 90 days of offence.
- ◉ To maintain register of wages, fines, deductions, advances.

# REFERENCES

- <http://www.ilo.org/dyn/travail/docs/625/Payment%20of%20Wages%20Act%201936.pdf>
- <http://labour.gov.in/upload/uploadfiles/files/ActsandRules/LawsRelatedtoWages/The%20Payment%20of%20Wages%20Act,%201936.pdf>
- [http://business.gov.in/legal\\_aspects/wages\\_1936.php](http://business.gov.in/legal_aspects/wages_1936.php)

THANK YOU ...